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Effectiveness of the Government's Attack on La Cosa Nostra

Statement of
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Committee on Governmental Affairs
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Mr. Chairman and Members of the Subcommittee:

I appreciate this opportunity to appear here today. At your request, the Office of Special Investigations, U.S. General Accounting Office, has gathered information on the effectiveness of the U.S. Government's law enforcement efforts directed against La Cosa Nostra (LCN) and on the future course of those efforts. Today, I will discuss the results of our examination.

Much of our information was gained from extensive interviews with individuals in the law enforcement community, including members of federal strike forces, state government agencies, and various U.S. attorneys' offices. The attorneys we interviewed had collectively prosecuted over 80 LCN members and associates. We also sought the views of dozens of law enforcement agents in the cities where the LCN is known to operate. We have relied heavily on the knowledge, judgment, and experience of these individuals. Some have information obtained from undercover agents and informants. Others have listened to many hours of conversations between LCN members and leaders that were intercepted electronically as part of criminal investigations.

The LCN criminal enterprises are secretive in nature. Therefore, the size of the LCN and the scope of its activities are difficult to determine. The effects of the government's efforts directed against it are difficult to judge as well. Nonetheless, it is clear the government has had recent successes against the LCN.

At the same time, law enforcement officials have informed us that the LCN still survives and possesses an array of assets and revenue-earning enterprises, both legitimate and illegitimate. The challenge ahead for the Nation's law enforcement community is great.

Today, I will begin by addressing the LCN's origin and evolution. I will follow with a discussion of what we have learned about the government's recent efforts directed against the LCN, and the effectiveness of these efforts. I will conclude my statement today with some suggestions as to the future direction of these efforts, which we have gathered in our interviews with law enforcement officials.

THE ORGANIZATION AND ITS CODE

The LCN can be traced to a revolutionary organization in Sicily called the Mafia. Elements of the Mafia fled Italy and immigrated to this country during the late 1800's. By 1890, Mafia organizations were established in New Orleans, New York, and elsewhere. In the 1920's, Prohibition provided these organizations with opportunities to develop great wealth and power. By 1931, La Cosa Nostra, the American version of the Mafia, had become organized and operational.

In the nearly 60 years of the LCN's evolution, a sophisticated and stable criminal organization has developed with rules and a behavioral code that have contributed to its success and survival.

The Federal Bureau of Investigation (FBI) has estimated that the LCN empire consists of 25 families, or centers of power, that together contain at least 2,000 members, each member having a number of associates. These families, which are largely independent, local organizations, comprise a confederation and acknowledge the authority of a commission consisting of the leaders of the most powerful LCN families.

Remarkably similar ruling bureaucracies are found among the families and have existed since the LCN's early years. The family is led by a boss, or "capo," whose deputy is called an underboss, or "sottocapo." Senior officials who provide advice, mediate disputes, and have important networks of contacts, but have no line authority, are called "consiglieres." The soldiers, or "wiseguys," are organized into groups of varying sizes and are led by street bosses, or "caporegimes." Each family has associates at the lowest levels with whom the family shares its profits.

Behavior in the families is dictated by a code. The strongest features of this code are respect for the LCN leaders and "omerta," which dictates that members are forbidden from betraying one another to the police.

Another feature of the LCN is its dependency on violence. Violence is practiced to enforce omerta, to eliminate competition, to extort payments, to intimidate witnesses and victims, and to remove partners in failed financial ventures.

The LCN's sole purpose is to make money. The backbone of the organization is its reliance on street vice, such as narcotics, gambling, and loan-sharking. Certain secondary criminal activities are also necessary to protect the LCN's enterprises and to insulate its leaders. These criminal activities include murder, political corruption, and union domination.

One of the LCN's most insidious enterprises is labor racketeering, which not only generates cash, but also provides the LCN with power and influence. Most of the thousands of labor unions in this country are law-abiding and free of any associations with organized crime. However, for many years, the LCN has exploited some labor unions. In many cases, the LCN-dominated unions have proven to be particularly valuable to the LCN in gaining and maintaining control of industries, such as construction, transportation, and meat-processing. In recent

years, the LCN's methods of exploitation have become more sophisticated. The LCN has turned from looting the unions, which have annual receipts of $9.5 billion, to stealing from union pension and welfare funds, which have assets worth more than $1 trillion.

In the 1960's and early 1970's, the LCN stole from union benefit funds through loan schemes and used the proceeds to finance LCN enterprises and purchase business assets. However, because of the risks posed by laws such as ERISA, the Employee Retirement Income Security Act, and, more recently, the Crime Control Act of 1984, the LCN has been forced to change its tactics. In recent years, the LCN has developed highly sophisticated schemes that drain pension and welfare funds through phoney service providers, which provide no services, and through cooperative service providers that kick back overcharges to the LCN. These mob-service providers include medical, dental, and eye care clinics; legal service providers; and financial planners and accountants.

The LCN is so deeply involved in certain industries, such as shipping, construction, meat-processing, and waste disposal, that sectors of the U.S. economy are heavily influenced by the mob's presence.

From its holdings in legitimate businesses and its dominance of certain unions, the LCN has acquired a veneer of respectability.

This has been translated into an impressive network of political and corporate contacts.

THE GOVERNMENT'S EFFORTS TO COMBAT ORGANIZED CRIME

In 1951, a congressional committee chaired by Senator Estes Kefauver declared that a nationwide crime cartel, which it called the Mafia, operated in many large cities throughout the United States. In 1957, authorities discovered at least 75 of the Nation's organized crime leaders gathered for a meeting in Apalachin, New York. Following this discovery, public hearings were held by Senator John L. McClellan, Chairman of the Select Senate Committee investigating the infiltration of organized crime into labor and business. At that time, McClellan also served as Chairman of the Senate Permanent Subcommittee on Investigations. These hearings, which were held between 1958 and 1961, disclosed further evidence of a massive criminal organization in the United States.

After the McClellan Committee hearings, then-Attorney General Robert Kennedy launched a concerted federal law enforcement effort against the LCN. One of the highlights of these efforts was the defection and testimony of LCN soldier Joseph Valachi.

In the late sixties, the Department of Justice created its Organized Crime Strike Force program, which brought together

senior investigators and career prosecutors to investigate and prosecute LCN figures. At the same time, Congress began designing legal tools to combat organized crime, such as the Racketeering Influenced and Corrupt Organizations Act (RICO).

These legal tools, however, were not always put to immediate use by the government. Despite the passage of RICO in 1970, prosecutors proceeded cautiously and criminal indictments of high-level LCN members under RICO did not occur in significant numbers until the 1980's. The first civil RICO law suit was not filed until 1982, a full 12 years after the act's passage. The prosecutors' caution was attributable, in part, to their need to become familiar with the new law and their uncertainty as to how the courts would react to such a far-reaching statute. However, in retrospect, such a lengthy delay in the use of RICO is difficult to justify.

An important development during the early stages was the increased use of electronic surveillance. Not only did technology improve in this area, but federal and local law enforcement personnel learned how better to prepare and present probable cause affidavits in support of requests for search warrants and Title III requests, and better use the information obtained through electronic surveillance.

Around 1980, the government began emphasizing the use of wiretaps and room microphones in organized crime enforcement efforts, with a view toward focusing their efforts on the larger criminal conspiracies engaged in by the LCN. By this time, criminal prosecutions under RICO by the Department of Justice were more common. Civil RICO cases were also being pursued. For example, the International Brotherhood of Teamsters (IBT) Local 560 was placed into trusteeship. Additionally, the FBI had been authorized to carry out intelligence collection and assessment efforts directed at the LCN.

LCN specialists within the New York Organized Crime Task Force and the FBI began focusing their efforts on the leadership of the five families in New York--the Colombo, Gambino, Genovese, Luchese, and Bonanno families. FBI squads were set up to attack the criminal activities of each family. These squads studied the structures and the enterprises of each of the five families. Evidence was then collected connecting these enterprises to the family hierarchy. About this time, the FBI began to work jointly with other criminal investigative experts, such as investigators from the New York City Organized Crime Task Force and Department of Labor's Office of Labor Racketeering, in attacking the LCN. There was also a cooperative effort between the FBI and the New York Police Department (NYPD), which combined the experience of New York City detectives and the resources of the FBI.

These efforts produced significant results. The Commission case (United States v. Salerno, S85 CR 139 [RO] SDNY) resulted in the conviction of three of the New York City bosses on labor racketeering charges related to control of the concrete industry in New York City. The Pizza Connection case (United States v. Badalementi, SDNY 84-236) resulted in the conviction of 17 individuals on charges related to trafficking in heroin between the United States and Sicily and the laundering of $25 million in profits.

Further west, two FBI-Strike Force Operations--Pendorf in Chicago and Strawman in Kansas City--led to the conviction of members of the Chicago family as well as LCN leaders in Milwaukee and Cleveland. Both investigations concerned the Teamster Central State Pension Funds in Chicago, and, in particular, use of the funds to provide the LCN secret ownership of real estate and businesses, especially in the casino industry in Las Vegas.

Between 1983 and 1986, over 2,500 LCN members and associates were indicted. Among those convicted were the following 16 mob bosses:

(1) Tony Salerno--boss of the Genovese family in New York City;

(2) Tony Corallo--boss of the Luchese family in New York City;

(3) Carmine Persico--boss of the Colombo family in New York City;

(4) Phillip Rastelli--boss of the Bonanno family in New York City;

(5) Eugene Smaldone--boss of the LCN family in Denver;

(6) Carlos Marcello--boss of the LCN family in New Orleans;

(7) Joseph Aiuppa--boss of the LCN family in Chicago;

(8) Nick Civella--boss of the LCN family in Kansas City;

(9) Carl Civella--successor boss of the LCN family in Kansas City;

(10) Dominick Brooklier--boss of the LCN family in Los Angeles;

(11) Frank Balistrieri--boss of the LCN family in Milwaukee;

(12) Gennaro Angiulo--boss of the Boston branch of the LCN;

(13) Russell Bufalino--boss of the LCN family in Pittston, Pennsylvania;

(14) Nicodemo Scarfo--boss of the LCN family in Philadelphia;

(15) James Licavoli--boss of the LCN family in Cleveland; and

(16) Michael Trupiano, Jr.--boss of the LCN family in St. Louis.

In recent years, court-imposed penalties have also allowed the government to begin seizing cash and other assets from the LCN. In the Boston Strike Force's Angiulo case, $4 million in assets were seized and fines of $250,000 were levied against defendants.

In 1982, 22 years after the McClellan hearing exposed the LCN-union connection, the government sought to place the International Brotherhood of Teamsters Local 560 into trusteeship. Since then, the government has filed civil RICO suits in New York City involving Local 6A Cement and Concrete Workers of the Laborers International Union of North America, the International Brotherhood of Teamsters Local 814, and the United Seafood Workers Union Local 359. In Philadelphia, the Justice Department has asked the court to place the Roofers Union Local 30-30B under trusteeship. It is widely reported that the government is preparing to seek trusteeship for the International Brotherhood of Teamsters, the largest of the four international unions dominated by the LCN.

The membership losses caused by the government's continuous war have presented the LCN with a number of problems. First, the recent convictions of LCN leaders have left leadership vacancies and, as a result, operational difficulties. Within many families, a number of leaders at the caporegima level and above were removed simultaneously. This forced sudden promotions from lower, less experienced ranks.

Let me explain how the forced promotions have damaged the LCN's operations. The LCN has several tiers of criminal enterprises. Generally, the lowest level street-crime enterprises, such as illegal drug sales, gambling, and loan-sharking, are managed by the soldiers and associates. These enterprises do not require sophisticated management skills and contacts; they rely heavily on intimidation, threats, and violence. The higher tiers of the criminal enterprises, such as industry management, political corruption, and labor racketeering, are conducted by the LCN leadership. The activities at these levels rely on networking between the LCN and co-conspirators who craft fragile and complex agreements for their mutual benefit. Managing these activities requires managerial ability and experience. Inexperienced, violent wiseguys who are promoted too quickly to the LCN's top management to replace convicted leaders lack the skills needed to oversee the more sophisticated enterprises operated by the upper levels of the LCN.

Second, the LCN cannot simply hire entry-level replacements. Recruitment is risky. Undercover agents and confidential informants from a host of law enforcement agencies eagerly await recruitment opportunities. In addition, affiliation with the LCN has become increasingly hazardous. Government convictions and the resulting mob wars over succession rights have made once attractive membership opportunities now fearful prospects for professional criminals.

Finally, the lengthy sentences being given convicted LCN members, pretrial detention, and the Witness Security Program have resulted in the defection of LCN members in key positions. For example, the conviction of LCN members on drug-related charges can bring lengthy sentences. These prison sentences sometimes result in members betraying one another in exchange for leniency. This pattern of betrayal contributes to the success of the government's efforts as well as the further deterioration of the LCN's important code of omerta. At the same time, the continuing prosecution of the LCN's most powerful leaders has undermined respect for the bosses within the organization.

THE GOVERNMENT'S RESOURCES

Today, the law enforcement community has a number of effective legal tools to assist it in its efforts.

I have already mentioned RICO--the Racketeering Influenced and Corrupt Organization Act. Prior to the passage of this act, attacking an organized criminal group was an awkward affair. RICO facilitated the prosecution of a criminal group involved in superficially unrelated criminal ventures and enterprises connected only at the usually well-insulated upper levels of the organization's bureaucracy.

The act prescribed serious criminal penalties for the kind of crimes that top LCN leaders engage in. Before the act, the government's efforts were necessarily piecemeal, attacking isolated segments of the organization as they engaged in single criminal acts. The leaders, when caught, were only penalized for what seemed to be unimportant crimes. The larger meaning of these crimes was lost because the big picture could not be presented in a single criminal prosecution. With the passage of RICO, the entire picture of the organization's criminal behavior and the involvement of its leaders in directing that behavior could be captured and presented.

The significance of this was demonstrated by the Commission case. In that case, which focused on the highest levels of LCN leadership, the bosses of the major crime families in New York were found guilty of engaging in a pattern of racketeering through the Commission--the ruling counsel for the LCN families.

Evidence of the existence of the Commission was so compelling, the defendants did not even contest it.

The Comprehensive Crime Control Act of 1984, co-sponsored by you, Mr. Chairman, amended and strengthened various provisions of the federal law dealing with labor racketeering. With the passage of this act, individuals involved in bribes or payoffs now face felony charges. Additionally, the act lengthened the list of criminal violations that are a bar to employment in labor-management relation positions and positions with employees' benefit plans. The act also increased the period a convicted labor racketeer could be barred from 5 years to 13 years.

The Witness Security Program has proven a boon in turning major crime figures into informants and witnesses. The cooperation and testimony of such program participants as Aladena "Jimmy" Fratianno and Angelo Lonardo have triggered numerous successful criminal prosecutions. These violations of the code of silence have made family members distrustful of one another and are weakening the foundation upon which the LCN was established.

Another significant tool is the Bail Reform Act of 1984, which established new guidelines for pretrial detention. Several Strike Force attorneys report that as a result of the 1984 legislation, some defendants have pled guilty or become

cooperative witnesses. Without the Bail Reform Act, these defendants probably would not have done so. This is a change from the old system in which defendants would often cause lengthy delays in their trials while they were free on bail. Furthermore, the jailing of defendants awaiting trial or pending appeal has effectively disrupted their illegal businesses and destroyed the myth that the mob is invincible. Witnesses, too, have been more willing to cooperate with the knowledge that defendants are jailed.

Electronic surveillance is another tool that has been of great value to the law enforcement community to combat the LCN. Evidence gathered through electronic surveillance, such as the kind presented in the Commission and Strawman trials, has had a devastating impact on organized crime. The risks of being overheard preclude LCN members from freely communicating with one another and conducting day-to-day business. The use of intercepted communications as evidence has aided greatly in successfully prosecuting the mob. Electronic surveillance continues to grow in importance as a result of legislation such as the Electronic Communications Act of 1986, which allows wiretaps to be directed at an individual, not just a particular telephone, and technological developments, such as sophisticated equipment that permits unmanned surveillance.

FUTURE STRATEGY

Mr. Chairman, I have discussed some of the important results of the government's attack on the LCN. You also asked that we suggest a strategy the government may wish to consider in its future assault. Law enforcement officials have made various suggestions to us during our discussions with them regarding a future strategy to combat the LCN and other organized criminal groups. Based on those discussions, we offer seven suggestions.

First, the next stage of the government's efforts will require careful strategic planning. A well-thought-out plan should establish objectives, assign responsibilities, and allocate the government's finite resources. The current strike force planning vehicle, the National Organized Crime Planning Council, could be expanded and intensified to accomplish this.

Second, our interviews suggest that the industries vulnerable to the LCN's influence, such as the waterfront, land transportation, construction, and garment manufacturing, may require sophisticated, imaginative restructuring by industry and labor if we are to make permanent progress in eliminating the influence of organized crime in those industries. For example, in New York

City, where customers are captive to particular garbage haulers, the city has proposed that garbage haulers bid for the right to business in assigned districts.

Third, the Department of Justice should begin using new legislative tools, such as the new Money Laundering Control Act, which is directed at the money-laundering services so necessary to the LCN, as quickly as possible. Focusing on the LCN's money-laundering services directs the government's efforts at the wealthy upper hierarchy of the LCN.

Fourth, the specter of foreign-based organized criminal immigration, which law enforcement agencies brought to our attention, requires prompt action on the part of the Immigration and Naturalization Service (INS). Organized criminal groups are preparing to flee Hong Kong when control of that territory reverts back to mainland China. Additionally, the "Maxi Trial" in Sicily is causing organized crime members to consider immigrating because of fears of prosecution. Columbian drug cartel members are also seeking to expand their operations in the United States. The INS must vigorously enforce the exclusion laws and develop strong working relationships with the police of other nations to prevent criminals from entering the United States. Taking action now will prevent these new organized criminal groups from establishing a base in this country.

Fifth, the LCN-dominated unions should not be allowed to remain under the mob's control. If they elect to be LCN-controlled enterprises, or if the LCN holds them captive, the government should take action to end the LCN's domination using current available civil and criminal remedies. In addition to the reported pending government actions against the International Brotherhood of Teamsters, the government should also consider taking action against the other LCN-dominated international unions named by the President's Commission on Organized Crime: the Laborers International Union of North America, the Hotel Employees and Restaurant Employees Union, and the International Longshoremen's Association.

Sixth, while law enforcement agencies pursue their attack on the LCN hierarchy, they must also seek to better understand and address the problem of the LCN's continuing recruitment and induction of new members.

My seventh and final point is that we must continue to focus public attention on the LCN and its activities. Publicity, like that provided by today's hearing, increases public understanding of how the LCN operates. Publicity also increases the risk of exposure for those participating in the organization's activities, particularly the political figures and businesspeople who are enticed by the LCN's promises of large, easy profits.

Mr. Chairman, this concludes my statement. I will be pleased to respond to any questions you or other members of the Subcommittee may have at this time.